

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

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SEAN F. McAVOY, CLERK
DEPUTY
SPOKANE, WASHINGTON

MICHAEL C. ORMSBY
United States Attorney
Eastern District of Washington
Stephanie J. Lister
Assistant United States Attorney
Post Office Box 1494
Spokane, WA 99210-1494
Telephone: (509) 353-2767

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHRISTOPHER GARY CARLSON,

Defendant.

Case No.: CR-13-135-RMP

Plea Agreement

Plaintiff, United States of America, by and through MICHAEL C. ORMSBY,
United States Attorney, for the Eastern District of Washington, and Stephanie J.
Lister, Assistant United States Attorney for the Eastern District of Washington, and
Defendant, CHRISTOPHER GARY CARLSON, and the Defendant's counsel,
Matthew Campbell, agree to the following Plea Agreement:

1. Guilty Plea and Maximum Statutory Penalties:

The Defendant, CHRISTOPHER GARY CARLSON, agrees to plead guilty,
pursuant to Federal Criminal Procedure Rule 11(c)(1)(c), to Count 2 of the Indictment
filed on August 22, 2013, charging the Defendant with Possession of Child
Pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B).

The Defendant, CHRISTOPHER GARY CARLSON, understands that the
charge contained in the Indictment is a Class C Felony. The Defendant,

1 CHRISTOPHER GARY CARLSON, also understands that the minimum and
2 maximum statutory penalty for Possession of Child Pornography, in violation of 18
3 U.S.C. § 2252A(a)(5)(B), based on his predicate conviction, is not less than 10 years
4 nor more than 20 years imprisonment; a fine not to exceed \$250,000; a term of
5 supervised release of up to life; a Special Penalty Assessment of \$100; and
6 registration as a sex offender.

7 The Defendant, CHRISTOPHER GARY CARLSON, understands that a
8 violation of a condition of supervised release carries an additional penalty of re-
9 imprisonment for all or part of the term of supervised release without credit for time
10 previously served on post-release supervision.

11 2. The Court is Not a Party to the Agreement:

12 The Court is not a party to this Plea Agreement and may accept or reject this
13 Plea Agreement. Sentencing is a matter that is solely within the discretion of the
14 Court. The Defendant understands that the Court is under no obligation to accept any
15 recommendations made by the United States and/or by the Defendant; that the Court
16 will obtain an independent report and sentencing recommendation from the U.S.
17 Probation Office; and that the Court may, in its discretion, impose any sentence it
18 deems appropriate up to the statutory maximums stated in this Plea Agreement.

19 The Defendant acknowledges that no promises of any type have been made to
20 the Defendant with respect to the sentence the Court will impose in this matter. The
21 Defendant understands that the Court is required to consider the applicable sentencing
22 guideline range, but may depart upward or downward under the appropriate
23 circumstances.

24 Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the Defendant and the United States
25 agree to jointly recommend that the Defendant be sentenced to ten years
26 imprisonment, to be followed by a life term of supervised release, for Possession of

27 Child Pornography. If the Court does not accept the plea or chooses to sentence the
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1 Defendant to a greater or lesser sentence than the United States and the Defendant
2 have agreed upon, the Defendant and the United States may each withdraw from the
3 plea and this agreement is null and void.

4 3. Waiver of Constitutional Rights:

5 The Defendant, CHRISTOPHER GARY CARLSON, understands that by
6 entering this plea of guilty the Defendant is knowingly and voluntarily waiving certain
7 constitutional rights, including:

- 8 a. The right to a jury trial;
- 9 b. The right to see, hear and question the witnesses;
- 10 c. The right to remain silent at trial;
- 11 d. The right to testify at trial; and
- 12 e. The right to compel witnesses to testify.

13 While the Defendant is waiving certain constitutional rights, the Defendant
14 understands the Defendant retains the right to be assisted through the sentencing and
15 any direct appeal of the conviction and sentence by an attorney, who will be appointed
16 at no cost if the Defendant cannot afford to hire an attorney. The Defendant also
17 acknowledges that any pretrial motions currently pending before the Court are waived.

18 4. Elements of the Offense:

19 The United States and the Defendant agree that in order to convict the
20 Defendant of Possession of Child Pornography, in violation of 18 U.S.C. §
21 2252A(a)(5)(B), the United States would have to prove beyond a reasonable doubt
22 the following elements:

- 23 a. First, on or about May 2, 2013, within the Eastern District of
24 Washington, the Defendant, CHRISTOPHER GARY CARLSON,
25 knowingly possessed material that contained images of child
26 pornography, as charged;

- 1 b. Second, that the material had been mailed, shipped or transported in
2 interstate or foreign commerce by any means, including by computer,
3 or that the material was produced using materials that had been
4 mailed, shipped or transported in interstate or foreign commerce by
5 any means, including by computer; and
6 c. Third, that at the time he possessed the material, the Defendant
7 believed that such images constituted child pornography.

8 5. Factual Basis and Statement of Facts:

9 The United States and the Defendant stipulate and agree that the following facts
10 are accurate; that the United States could prove these facts beyond a reasonable doubt
11 at trial; and these facts constitute an adequate factual basis for CHRISTOPHER
12 GARY CARLSON 's guilty plea. This statement of facts does not preclude either
13 party from presenting and arguing, for sentencing purposes, additional facts which are
14 relevant to the guideline computation or sentencing, unless otherwise prohibited in
15 this agreement.

16 Investigation into this case was initiated after ten separate cybertip reports from
17 the National Center for Missing and Exploited Children (NCMEC)¹ were received and
18 investigated by the Wenatchee Police Department (WPD). The NCMEC reports
19 indicated that an internet user in the Wenatchee area was suspected of Child
20 Pornography (possession, manufacture, and distribution). All of the Cybertipline
21 Reports were reported to the Cybertipline by the internet company "airG" (airG is a
22 social media website similar to Facebook, which is based in Canada.)

23 All ten of the Cybertipline Reports showed chat conversations from a subject
24 with a screen/user name of "samsonman99". The ten chats occurred from April 13-14,
25 2013 and the content indicated individuals were discussing the trading, possession and

26 ¹ NCMEC operates the CyberTipline which is a reporting system for
27 internet providers and customers to report suspected child exploitation.

1 receipt of child pornography photographs and videos. One of the reports provided by
2 NCMEC indicated "samsonman99" was chatting with a screen/user name
3 "warlock666":

4 Law enforcement traced the Internet Protocol (IP) addresses of "samsonman99"
5 and "warlock666" and found that they were registered to Geo-Lookup and that the IP
6 addresses were designated with Verizon. In addition, based on a review of
7 conversation between "samsonman99" and "warlock666" it was determined that the
8 phone number of 509-264-2994 was provided by "warlock666" and law enforcement
9 determined that the subscriber for that phone number was a Sprint/Nextel customer in
10 the Wenatchee, Washington area.

11 On April 29, 2013, a state search warrant was obtained and served on
12 Northwest Internet, dba Localtel. Localtel records showed that the customer utilizing
13 the IP address registered to "warlock666" was the Hospitality House located in
14 Wenatchee, WA and that they had WIFI internet access at their facility.

15 WPD conducted an internet search for the user name "warlock666" and located
16 this user name on the web site KrackSocial (KrackSocial is a social network) with the
17 following information, which was copied from the user profile:

18 Warlock666. 39, male, Single, Wenatchee, Washington, US.

19 About warlock666: 5'9" 210 lil pudgy, blue eyes, blackhair, 7 1/2" long 2" thick.

20 Interests: Sex. Trading nude pix

21 Relationships: (Several photographs of young looking females had been
22 posted.)

23 WPD noted that "warlock666" had a recent status update with the following:

24 "Birthday is on Wednesday. The big 40." WPD determined that this user was
25 referring to his birthday and checked this birthday in their local database and it
26 matched Christopher G. Carlson. In addition, a recent booking photo from the Chelan

1 County Regional Jail of Carlson matched the photograph of "warlock666" on the
2 Kracksocial web site.

3 WPD's local database showed that Carlson's address was the Wenatchee
4 Hospitality House and that Carlson was a registered sex offender. In 2007, Carlson
5 was convicted of Possession of Child Pornography. WPD also noted that Carlson was
6 currently on Community Supervision through Washington State Department of
7 Corrections (DOC).

8 WPD contacted the Washington State Community Corrections Office and was
9 advised that Carlson was under supervision and that Carlson was evicted from the
10 Hospitality House on April 25, 2013, for allegedly viewing inappropriate photographs
11 on a computer. DOC advised that Carlson was listed as homeless and that he had to
12 check in with DOC daily. DOC further advised that they showed a current phone
13 number for Carlson to be 509-264-2994. This phone number matched the number for
14 "warlock666" in the CyberTip conversation with "samsonman99." DOC also advised
15 they had the following email address for Carlson: "warlock5173@yahoo.com."

16 After further investigation, on May 2, 2013, WPD obtained a search warrant for
17 the cellular phones that Carlson was believed to be using to distribute and possess
18 depictions of minors engaged in sexually explicit conduct. On May 2, 2013, Carlson
19 was located at a Safeway in Wenatchee, his cellular phones were seized, and he was
20 transported to WPD.

21 Continuing on May 2, 2013, Carlson was read his Miranda Warnings and Right
22 to Counsel, which rights Carlson waived in writing. Carlson admitted he had been
23 sending pictures and videos that he knew contained child pornography from his
24 cellular phone. Carlson admitted he had child pornography on his phone, which he
25 either downloaded from the internet or received via text message or email. Carlson
26 stated that the email accounts he utilized were gmail and yahoo. Carlson stated that he
27 met some of the people exchanging child pornography on the social media site airG,

1 including samsonman99. Carlson stated that he has exchanged child pornography
2 with samsonman99 via text messaging.

3 A forensic examination was conducted by WPD of both of the cellular phones
4 (Kyocera Event and Verizon Pantech) found in Carlson's possession. No child
5 pornography images were located on the Verizon Pantech phone. Over 600 images of
6 child pornography were located on Carlson's Kyocera Event phone, which depicted
7 minors engaged in sexually explicit conduct. The child pornography images were of
8 girls in the age range of toddlers to teenagers and thus, included child pornography
9 images of children under the age of twelve. Some of the images showed the girls
10 having sexual intercourse with adults and depicted sadistic and masochistic conduct.
11 In addition, on the Kyocera Event cell phone Carlson had the following email
12 addresses: warlock5173@gmail.com and cplover@yahoo.com. The child
13 pornography images were received on or about April 11, 2013 and continued through
14 until Defendant's arrest on May 2, 2013. The Kyocera Event cell phone is not
15 manufactured in the State of Washington.

16 6. The United States Agrees to Dismiss:

17 At the time of sentencing, the United States agrees to move to dismiss Count 1
18 of the Indictment, which charges the Defendant with Receipt of Child Pornography, in
19 violation of 18 U.S.C. § 2252A(a)(2).

20 7. United States Sentencing Guideline Calculations:

21 The Defendant understands and acknowledges that the United States Sentencing
22 Guidelines (hereinafter "U.S.S.G.") are applicable to this case and that the Court will
23 determine the Defendant's applicable sentencing guideline range at the time of
24 sentencing.

25 a. Base Offense Level:

26 The United States and the Defendant agree that the base offense level for
27 Possession of Child Pornography is 18. See U.S.S.G. §2G2.2(a)(1).

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1 b. Specific Offense Characteristics:

2 The United States and the Defendant agree and stipulate that the base offense is
3 increased by an additional two (2) levels because the material involved children who
4 had not attained the age of 12. See U.S.S.G. §2G2.2(b)(2).

5 The United States and the Defendant also agree and stipulate that the base
6 offense is increased by an additional four (4) levels because the offense involved
7 material that portrays sadistic or masochistic conduct or other depictions of violence.
8 See U.S.S.G. §2G2.2(b)(4).

9 The United States and the Defendant also agree and stipulate that the base
10 offense is increased by an additional two (2) levels because the offense involved the
11 use of a computer for Possession, or for accessing with intent to view the material.
12 See U.S.S.G. §2G2.2(b)(6).

13 The United States and the Defendant also agree and stipulate that the base
14 offense is increased by an additional five (5) levels because the offense involved over
15 600 images of child pornography. See U.S.S.G. §2G2.2(b)(7).

16 c. Acceptance of Responsibility:

17 If the Defendant pleads guilty and demonstrates a recognition and an
18 affirmative acceptance of personal responsibility for the criminal conduct; provides
19 complete and accurate information during the sentencing process; does not commit
20 any obstructive conduct; accepts this Plea Agreement; and enters a plea of guilty no
21 later than November 1, 2013, the United States will move for a three (3) level
22 downward adjustment in the offense level for the Defendant's timely acceptance of
23 responsibility, pursuant to U.S.S.G. §3E1.1(a) and (b).

24 The Defendant and the United States agree that the United States may at its
25 option and upon written notice to the Defendant, not recommend a three (3) level
26 downward reduction for acceptance of responsibility if, prior to the imposition of

1 sentence, the Defendant is charged or convicted of any criminal offense whatsoever or
2 if the Defendant tests positive for any controlled substance.

3 Furthermore, the Defendant agrees to pay the \$100 mandatory special penalty
4 assessment to the Clerk of Court for the Eastern District of Washington, at or before
5 sentencing, and shall provide a Possession from the Clerk to the United States before
6 sentencing as proof of this payment, as a condition to this recommendation by the
7 United States.

8 Therefore, the United States and the Defendant agree that the Defendant's final
9 adjusted offense level would be 28.

10 d. Criminal History:

11 The United States and the Defendant are aware of Defendant's 2007 state
12 conviction for Possession of Child Pornography; however, the parties understand that
13 the Defendant's criminal history computation is tentative and that ultimately the
14 Defendant's criminal history category will be determined by the Court after review of
15 the Presentence Investigative Report. The United States and the Defendant have made
16 no agreement and make no representations as to the criminal history category, which
17 shall be determined after the Presentence Investigative Report is completed.

18 8. Jointly Recommended Term of Imprisonment:

19 The United States and the Defendant agree that this plea agreement is entered
20 pursuant to Fed. R. Crim. P. 11(c)(1)(C) and to jointly recommend Defendant be
21 sentenced to ten years imprisonment and a life term of supervised release for
22 Possession of child pornography.

23 9. Criminal Fine:

24 The United States and the Defendant are free to make whatever
25 recommendation concerning the imposition of a criminal fine that they believe is
26 appropriate.

10. Supervised Release:

The United States and the Defendant agree to recommend that the Court impose a life term of supervised release to include the following special conditions, in addition to the standard conditions of supervised release that the Defendant:

- a. not have contact with any child under the age of 18, without the presence of an adult and approved in advance by the Probation Officer, this includes prohibiting the Defendant from having any contact with any child by telephone or the internet. The Defendant shall immediately report any unauthorized contact with minor-aged children to the Probation Officer;
- b. allow the Probation Officer or designee to conduct random inspections, including retrieval and copying of data from any computer, and any personal computing device that the Defendant possesses or has access to, including any internal or external peripherals. This may require temporary removal of the equipment for a more thorough inspection. The Defendant shall not possess or use any data encryption technique or program. The Defendant shall purchase and use such hardware and software systems that monitor the Defendant's computer usage, if directed by the Probation Officer;
- c. shall not reside or loiter within 1000 feet of places where children under the age of 18 congregate, which includes primary and secondary schools, schoolyards, parks, playgrounds, shopping malls, daycare centers, carnivals, recreation centers, and arcades;
- d. shall not possess or manufacture any sexually stimulating, sexually explicit or sexually oriented material including videos, magazines, photographs, computer generated depictions, or any other matter that depicts "sexually explicit conduct" involving children or adults, as

1 defined by 18 U.S.C. § 2256(2). The Defendant shall not enter or be
2 present at any establishment involved in the sex industry, including
3 adult book stores, massage parlors, escort services, and strip bars.

4 The Defendant shall not use any sex-related adult telephone number.

5 The Defendant shall provide all his/her telephone records to monitor
6 compliance, at the direction of the Probation Officer;

7 e. register as a sex offender, according to the laws of each state in which
8 the Defendant resides, is employed, or is attending school. The
9 Defendant shall provide verification of compliance with this
10 requirement to the Probation Officer;

11 f. complete a sex offender evaluation, which may include periodic
12 psychological, physiological, polygraph testing, and completion of the
13 ABEL assessment, at the direction of the Probation Officer;

14 g. participate and successfully complete an approved state-certified sex
15 offender treatment program, including compliance with all lifestyle
16 restrictions and treatment requirements of the program. The
17 Defendant shall allow reciprocal release of information between the
18 Probation Officer and the treatment provider. The Defendant shall
19 contribute to the cost of treatment according to the Defendant's ability.

20 11. Mandatory Special Penalty Assessment:

21 The Defendant agrees to pay the \$100 mandatory special penalty assessment to
22 the Clerk of Court for the Eastern District of Washington, at or before sentencing,
23 pursuant to 18 U.S.C. § 3013 and shall provide a Possession from the Clerk to the
24 United States before sentencing as proof of this payment.

25 12. Payments While Incarcerated:

26 If the Defendant lacks the financial resources to pay the monetary obligations
27 imposed by the Court, the Defendant agrees to earn the money to pay toward these

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1 obligations by participating in the Bureau of Prisons' Inmate Financial Responsibility
2 Program.

3 13. Forfeiture:

4 The Defendant, CHRISTOPHER GARY CARLSON, agrees to voluntarily
5 forfeit and relinquish all right, title and interest in all assets identified in the Notice of
6 Criminal Forfeiture Allegations contained in the Indictment, to the United States, and
7 hereby agrees to execute any and all forms and pleadings necessary to effectuate such
8 forfeiture of such assets, including, but not limited to the following:

9 1) One Kyocera Event Cell (Smart) Phone,
10 seized from Defendant on May 2, 2013, pursuant to a search warrant.

11 The Defendant stipulates that he is the sole owner of the asset identified in the
12 Indictment and that no one else has an interest in the asset.

13 The Defendant acknowledges that the assets listed above that the Defendant is
14 agreeing to forfeit are subject to forfeiture pursuant to 18 U.S.C. § 2253(a) and (b), as
15 property used or intended to be used in any manner or part to commit or to facilitate
16 the commission of the Possession of Child Pornography charge alleged in the
17 Indictment to which Defendant is pleading guilty. The Defendant agrees to take all
18 steps as requested by the United States to pass clear title to the assets to the United
19 States, and to testify truthfully in any forfeiture proceeding.

20 The Defendant agrees to hold all law enforcement agents/officers, and the
21 United States, its agents, and its employees harmless from any claims whatsoever
22 arising in connection with the seizure and forfeiture of any asset covered by this
23 agreement.

24 The Defendant waives further notice of any federal, state or local proceedings
25 involving the forfeiture of the seized assets the Defendant is agreeing to forfeit in this
26 Plea Agreement.

1 14. Additional Violations of Law Can Void Plea Agreement:

2 The Defendant and the United States agree that the United States may at its
3 option and upon written notice to the Defendant, withdraw from this Plea Agreement
4 or modify its recommendation for sentence if, prior to the imposition of sentence, the
5 Defendant is charged or convicted of any criminal offense whatsoever or if the
6 Defendant tests positive for any controlled substance.

7 15. Appeal Rights:

8 Defendant understands that he has a limited right to appeal or challenge the
9 conviction and sentence imposed by the Court. Defendant hereby expressly waives
10 his right to appeal his conviction and the sentence the Court imposes, including any
11 restitution order so long as that restitution order does not exceed \$10,000. Defendant
12 further expressly waives his/her right to file any post-conviction motion attacking
13 his/her conviction and sentence, including a motion pursuant to 28 U.S.C. § 2255,
14 except one based upon ineffective assistance of counsel based on information not now
15 known by Defendant and which, in the exercise of due diligence, could not be known
16 by Defendant by the time the Court imposes the sentence.

17 17. Notice of Sex Offender Registration:

18 The Defendant has been advised and understands, that as a convicted sex
19 offender, under the Sex Offender Registration and Notification Act, a federal law, the
20 Defendant must register and keep the registration current in each of the following
21 jurisdictions: the location of the Defendant's residence, the location of the Defendant's
22 employment; and, if the Defendant is a student, the location of the Defendant's school.
23 Registration will require that the Defendant provide information that includes name,
24 residence address, and the names and addresses of any places at which the Defendant
25 is or will be an employee or a student. The Defendant understands that he/she must
26 update his/her registrations not later than three business days after any change of
27 name, residence, employment, or student status. The Defendant understands that

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1 failure to comply with these obligations subjects the Defendant to prosecution for
2 failure to register under federal law, 18 U.S.C. § 2250, which is punishable by a fine
3 or imprisonment, or both.

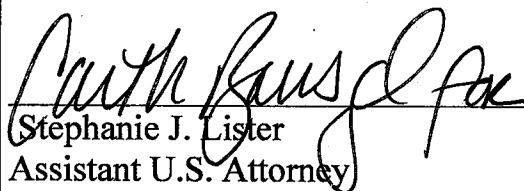
4 18. Integration Clause:

5 The United States and the Defendant acknowledge that this document
6 constitutes the entire Plea Agreement between the United States and the Defendant,
7 and no other promises, agreements, or conditions exist between the United States and
8 the Defendant concerning the resolution of the case. This Plea Agreement is binding
9 only upon the United States Attorney's Office for the Eastern District of Washington,
10 and cannot bind other federal, state or local authorities. The United States and the
11 Defendant agree that this agreement cannot be modified except in a writing that is
12 signed by the United States and the Defendant.

13
14 Approvals and Signatures

15 Agreed and submitted on behalf of the United States Attorney's Office for
16 the Eastern District of Washington.

17
18 MICHAEL C. ORMSBY
19 United States Attorney

20
21 
22 Stephanie J. Lister
23 Assistant U.S. Attorney

24
25 11/1/13
26 Date

27 I have read this Plea Agreement and have carefully reviewed and discussed
28 every part of the agreement with my attorney. I understand and voluntarily enter into
this Plea Agreement. Furthermore, I have consulted with my attorney about my

1 rights, I understand those rights, and I am satisfied with the representation of my
2 attorney in this case. No other promises or inducements have been made to me, other
3 than those contained in this Plea Agreement and no one has threatened or forced me in
4 any way to enter into this Plea Agreement. I am agreeing to plead guilty because I am
5 guilty.

6 

7 CHRISTOPHER GARY CARLSON

8 Defendant

11-1-13
Date

9 I have read the Plea Agreement and have discussed the contents of the
10 agreement with my client. The Plea Agreement accurately and completely sets forth
11 the entirety of the agreement between the parties. I concur in my client's decision to
12 plead guilty as set forth in the Plea Agreement. There is no legal reason why the
13 Court should not accept the Defendant's plea of guilty.

14 

15 Matthew Campbell
16 Attorney for the Defendant

11-1-13
Date